



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2022-0186; FRL-9930-02-R8]

**Approval and Promulgation of Implementation Plans; State of Utah; Revisions
to Utah Administrative Code: Environmental Quality; Title R307; Air Quality**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Utah Division of Administrative Rules (DAR) submitted by the State of Utah on May 21, 2020, May 28, 2020, November 3, 2020, and November 12, 2020. The EPA is taking this action pursuant to the Clean Air Act (CAA).

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2022-0186. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Amanda Brimmer, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6323, brimmer.amanda@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The factual and legal background for this action is discussed in detail in our June 30, 2022, proposed approval (see 87 FR 39036). In that document we proposed to approve various revisions to the Utah SIP that were submitted to the EPA on May 21, 2020, May 28, 2020, November 3, 2020, and November 12, 2020. The proposal provides a detailed description of the revisions and the rationale for the EPA’s proposed actions.

The revisions to the Utah Administrative Code address various State Implementation Plan (SIP) changes and updates. Specifically, we are approving clerical updates to the General Requirements, Permits, and Emissions Inventory rules, including updating the effective date of various code of federal regulations (CFR) referenced. Additionally, we are approving changes to several Permits rules including adding new definitions, clarifying testing methods, and specifying an emissions limit for particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 microns ($PM_{2.5}$) for emissions impact analysis. We are also approving the repeal and replacement of the Emissions Testing rule as well as approve a new rule related to abrasive blasting in particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns (PM_{10}) nonattainment areas.

We received one anonymous comment on this proposal which expressed general opposition to activities in the state that emit pollution, such as land ports, railroads, fracking, abandoned wells, and development of the Salt Lake City Valley. The commentor expressed support for “higher standards,” but did not provide any specific comments related to the proposed approval. After reviewing the comment, EPA has determined that it is outside the scope of this action and therefore, the EPA is not altering its proposed rulemaking.

II. Final Action

We are approving submitted revisions to R307-101. General Requirements., R307-150. Emission Inventories., R307-165. Stack Testing., R307-306. PM₁₀ Nonattainment and Maintenance Areas: Abrasive Blasting., R307-401. Permit: New and Modified Sources., R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD)., and R307-410. Permits: Emissions Impact Analysis. from the State's May 21, 2020, May 28, 2020, November 3, 2020, and November 12, 2020, submittals as shown in Table 1. We are not acting on several submittals that were withdrawn by the State on June 13, 2022.¹

Table 1-List of Utah Revisions to R307 that the EPA is Approving in this Action

Revised sections in May 21, 2020, May 28, 2020, November 3, 2020, and November 12, 2020, submittals for approval.
<i>May 21, 2020 Submittal</i> R307-401-2, R307-401-10, R307-401-15
<i>May 28, 2020 Submittal</i> R307-150-1, R307-401-2, R307-401-4, R307-401-5, R307-401-6, R307-401-9, R307-401-10, R307-401-11, R307-401-14, R307-401-15, R307-401-16
<i>November 3, 2020 Submittal</i> R307-101-3, R307-165-1, R307-165-2, R307-165-3, R307-165-4, R307-165-5, R307-165-6, R307-405-2, R307-410-3, R307-410-4
<i>November 12, 2020 Submittal</i> R307-306-1, R307-306-2, R307-306-3, R307-306-4, R307-306-5, R307-306-6, R307-306-7

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Rule R307-101, R307-150, R307-165, R307-306, R307-401, R307-405, and R307-410 discussed in section I of this preamble and listed in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials

¹ On June 13, 2022, the state of Utah withdrew submittals for R307-150-3, R307-150-9, R307-210-1, R307-214-1, R307-214-2, R307-401-16, R307-410-5, R307-501, R307-502, R307-503, R307-504, R307-505, R307-506, R307-507, R307-508, R307-509, R307-510, and R307-511. See letter from Governor Spencer Cox to KC Becker, Region 8 Administrator.

generally available through www.regulations.gov and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the state implementation plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.²

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

² 62 FR 27968 (May 22, 1997).

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60**

DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 30, 2022.

KC Becker,
Regional Administrator,
Region 8.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart TT—Utah

2. In §52.2320, in the table in paragraph (c):

a. Revise entries “R307-101-3” and “R307-150-01”.

b. Remove the center heading “R307-165. Emission Testing” and entry “R307-165”.

c. Add the center heading “R307-165. Stack Testing” and the entries “R307-165-01”, “R307-165-02”, “R307-165-03”, “R307-165-04”, “R307-165-05”, and “R307-165-06” in numerical order.

d. Add the center heading “R307-306. PM10 Nonattainment and Maintenance Areas: Abrasive Blasting” and the entries “R307-306-01”, “R307-306-02”, “R307-306-03”, “R307-306-04”, “R307-306-05”, “R307-306-06”, and “R307-306-07” in numerical order.

e. Revise entries “R307-401-02”, “R307-401-04”, “R307-401-05”, “R307-401-06”, “R307-401-09”, “R307-401-10”, “R307-401-11”, “R307-401-14”, “R307-401-15”, “R307-401-16”, “R307-405-02”, “R307-410-03”, and “R307-410-04”.

The revisions and additions read as follows:

§52.2320 Identification of plan.

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(c) * * *

Rule No.	Rule title	State effective date	Final rule citation, date	Comments
R307-101. General Requirements				
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R307-101-3	Version of Code of Federal Regulations Incorporated by Reference	6/4/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 7/10/20
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R307-150. Emission Inventories				
R307-150-01	Purpose and General Requirements	3/5/2018	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approvals: 12/14/12; 4/25/22.
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R307-165. Stack Testing				
R307-165-01	Purpose and Applicability.	6/3/2020 8/10/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 2/14/06
R307-165-02	Testing Frequency.	6/3/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 2/14/06

R307-165-03	Notification of DAQ.	6/3/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 2/14/06
R307-165-04	Test Conditions.	6/3/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 2/14/06
R307-165-05	Reporting.	6/3/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	
R307-165-06	Rejection of Test Results.	6/3/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	
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R307-306. PM10 Nonattainment and Maintenance Areas: Abrasive Blasting				
R307-306-01	Purpose.	9/2/2005	[insert Federal Register citation], [insert date of publication in the Federal Register]	
R307-306-02	Definitions.	9/2/2005	[insert Federal Register citation], [insert date of publication in the Federal Register]	
R307-306-03	Applicability.	9/2/2005	[insert Federal Register citation], [insert date of publication in the Federal Register]	
R307-306-04	Visible Emission Standard.	9/2/2005	[insert Federal Register citation], [insert date of publication in the Federal Register]	
R307-306-05	Visible Emission Evaluation Techniques.	9/2/2005	[insert Federal Register citation], [insert date of publication in the Federal Register]	
R307-306-06	Performance Standards.	9/2/2005	[insert Federal Register citation], [insert date of publication in the Federal Register]	
R307-306-07	Compliance Schedule.	9/2/2005	[insert Federal Register citation], [insert date of publication in the Federal Register]	
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R307-401. Permit: New and Modified Sources				
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R307-401-02	Definitions	3/5/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 2/6/14
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R307-401-04	General Requirements	3/5/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 2/6/14
R307-401-05	Notice of Intent	3/5/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 2/6/14
R307-401-06	Review Period	3/5/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 2/6/14
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R307-401-09	Small Source Exemption	3/5/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 2/6/14
R307-401-10	Source Category Exemptions	3/5/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 5/27/2021
R307-401-11	Replacement-in-Kind Equipment	3/5/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 2/6/14
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R307-401-14	Used Oil Fuel Burned for Energy Recovery	3/5/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 5/13/14
R307-401-15	Air Strippers and Soil Vapor Extraction Projects	3/5/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 1/29/16
R307-401-16	De minimis Emissions From Soil Aeration Projects	3/5/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 5/13/14
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R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD)				
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R307-405-02	Applicability	6/4/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 7/10/20

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R307-410. Permits: Emissions Impact Analysis							
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R307-410-03	Use of Dispersion Models	6/4/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 7/10/20			
R307-410-04	Modeling of Criteria Pollutant Impacts in Attainment Areas	8/6/2020	[insert Federal Register citation], [insert date of publication in the Federal Register]	Previous SIP approval: 2/6/14			
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